

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

DAMON ELLIOTT §
VS. § CIVIL ACTION NO. 9:10cv160
EUGENE HARBIN §

ORDER ADOPTING REPORT AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE

Petitioner Damon Elliott, an inmate confined in the IAH Detention Center, Livingston, Texas, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C § 2241. The petition was referred to United States Magistrate Judge Judith K. Guthrie. On January 27, 2011, Petitioner filed a motion for entry of default (docket entries #7, 9, 10). The Magistrate Judge, construing the motion as one for default judgment, filed a Report and Recommendation and a Supplemental Report and Recommendation, recommending that it be denied as an improper remedy. The Petitioner has filed objections.

The Reports of the Magistrate Judge, which contain her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is therefore

ORDERED that Petitioner's motion for entry of default, construed as a motion for default judgment (docket entries #7, 9, 10) is hereby **DENIED**.

So **ORDERED** and **SIGNED** this **22** day of **March, 2011**.



Ron Clark, United States District Judge